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10/816,547

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Chad D. Tillman

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IWARE, OLUSEYE

ART UNIT

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3687

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/816,547

**Applicant(s)**

TILLMAN, CHAD D.

**Examiner**

OLUSEYE IWARERE

**Art Unit**

3687

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 55-57 is/are pending in the application.
- 4a) Of the above claim(s) 16-54 and 57-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 55-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This communication is in response to the correspondence received on 10/19/2009. The the claims and remarks have been entered and considered below.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 19, 2009 has been entered.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1, 2 and 7 - 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Dejaeger (6,456,981).**

**As per claim 1**, Dejaeger discloses a computer implemented method of providing to a customer customized media at a physical point of sale (PPOS) at a time of a sales transaction for a good/service comprising the steps of:

storing a plurality of customer media profiles in a computer database, each of the customer media profiles comprising a customer identifier and a media content type identifier associated with the customer identifier, the media content type identifier identifying a type of information (fig. 1 items 46 – 54 depict a mass storage database including item 50, which is the user profile database);

receiving a customer identifier from a customer at a point of sale computer located proximate to the PPOS, the point-of-sale computer being in electronic communication with the database (abstract, discusses receiving an identifier through the user profile);

retrieving from the database a media profile that is associated with the customer identifier received from the customer, by the point-of-sale computer (abstract discusses retrieving a media profile from the point of sale computer);

generating an item of current information, the content of the generated item of current information being determined by the time of sales transaction for the good/service and the type of information identified in the retrieved media profile (abstract discusses generating an advertising message based on the profile); and

communicating the generated item of current information to the customer at the PPOS proximate to the time of the sales transaction (fig. 4. depicts the receipt with the generated item of current information).

**As per claim 2**, Dejaeger discloses wherein the step of communicating the generated item of current information comprises providing to the customer at the PPOS a printed publication including the generated item of current information (fig. 4 depicts a printed publication).

**As per claim 7**, Dejaeger discloses wherein the step of communicating the generated item of current information comprises wirelessly transmitting at the PPOS the item of current information to the customer (col. 24, lines 18 – 32 discuss wireless transmission).

**As per claim 8**, Dejaeger discloses wherein the step of communicating the generated item of current information comprises wirelessly transmitting at the PPOS the item of current information to a mobile computer device of the customer (col. 24, lines 18 – 32 discuss wireless transmission).

**As per claim 9**, Dejaeger discloses wherein the step of communicating the generated item of current information comprises wirelessly transmitting at the PPOS the item of current information to a personal digital assistant of the customer (col. 24, lines 18 – 32 discuss wireless transmission).

**As per claim 10**, Dejaeger discloses wherein the step of communicating the

generated item of current information comprises wirelessly transmitting at the PPOS the item of current information to a personal communication device of the customer (col. 24, lines 18 – 32 discuss wireless transmission).

**As per claim 11**, Dejaeger discloses wherein the step of communicating the generated item of current information comprises wirelessly transmitting at the PPOS the item of current information to a web-enabled telephone of the customer (col. 24, lines 18 – 32 discuss wireless transmission).

**As per claim 12**, Dejaeger discloses wherein the media profile is unique to the customer (abstract, discusses a unique customer profile).

**As per claim 13**, Dejaeger discloses wherein the media content type identified in the media profile is selected by the customer prior to the time of sale of the good or service (abstract discusses creation of the profile to time of sale).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claims 3 – 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dejaeger (6,456,981) in view of Examiner's Official Notice.**

**As per claims 3 - 6**, Dejaeger discloses the claimed invention but fails to explicitly disclose wherein the step of communicating the generated item of current information comprises printing the item of current information on a sleeve of a coffee cup that is provided to the customer at the PPOS;

wherein the step of communicating the generated item of current information comprises printing the item of time-sensitive information on a tray mat that is provided to the customer;

wherein the step of communicating the generated item of current information comprises printing the item of current information on packaging of a good that is sold to the customer;

wherein the step of communicating the generated item of current information comprises printing the item of current information on a bag in which a good is provided to the customer.

However, Instead Dejaeger discloses a generic printed product individualized for the customer in the abstract. The Examiner takes Official Notice that printing product information on a coffee cup, a tray mat, a packaging of a good or a bag are old and well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include these features.

**6. Claims 14 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dejaeger (6,456,981) in view of Schoder (7330828).**

**As per claims 14 - 16**, Dejaeger discloses the claimed invention but fails to explicitly disclose, wherein the customer selects the media content type when setting up or editing the media profile; wherein the setting up or editing of the media profile by the customer is accomplished online via the Internet; and wherein the item of current information includes information obtained over the Internet at the time of the sale of the good or service (col. 2, lines 6 – 12 discuss over the internet information).

Schoder teaches a system and process for the production of a customer individualized print product, wherein the customer selects the media content type when setting up or editing the media profile (col. 11, lines 9 – 22 discuss setting up the media profile);

wherein the setting up or editing of the media profile by the customer is accomplished online via the Internet (fig. 1 depicts the setting up of the profile via the internet); and

wherein the item of current information includes information obtained over the Internet at the time of the sale of the good or service (col. 2, lines 6 – 12 discuss over the internet information).

From this teaching of Schoder, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system and method of Dejaeger, to include the setting up or editing of the media profile accomplished online and obtaining current information over the internet, taught by Schoder, in order to make



the process customized.

**7. Claims 55 – 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dejaeger (6,456,981) in view of Herwig (2002/0082925).**

**As per claims 55 – 57**, Dejaeger discloses the claimed invention but fails to explicitly disclose, wherein the identifier comprises an account number of a loyalty program in which the customer is enrolled, wherein the identifier comprises a public key of a public private key pair of the customer and wherein the step of receiving an identifier at the time of the sale of the good or service comprises reading the identifier from a magnetic stripe card of the customer at the PPOS.

Herwig teaches a Method and apparatus for utilizing a smart card to maintain a retail application on a number of portable, wireless hand-held computing devices wherein the identifier comprises an account number of a loyalty program in which the customer is enrolled ([0002] discusses a loyalty program);

wherein the identifier comprises a public key of a public private key pair of the customer ([0003] discusses the identifier); and

wherein the step of receiving an identifier at the time of the sale of the good or service comprises reading the identifier from a magnetic stripe card of the customer at the PPOS ([0003] discusses a magnetic stripe).

From this teaching of Herwig, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Dejaeger to

include the customer account number of a loyalty program, the identifier and the magnetic stripe, taught by Herwig, in order to further provide customer-specific retail service.

### ***Response to Arguments***

8. Applicant's arguments filed October 19, 2009 have been fully considered but they are not persuasive.

Applicant argues, Dejaeger could not teach, nor could it suggest, the computer implemented method of claim 1 that includes "an item of current information" that is "determined by the time of the sales transaction." The asserted text of Dejaeger, i.e., the "advertising message," is based on a product that is not purchased by the user, and the users' profile. Dejaeger, thus, describes generating an "advertising message" that is independent of the actual time any product is purchased. In other words, the advertising message would be the same if that same user repeats the process of purchasing a first product, and scanning, but not purchasing a second product.

However, col. 6, lines 44 – 64 disclose, "It should be appreciated from the above discussion that each time a customer purchases a particular item (either via the self-service checkout terminal 18 or an assisted checkout terminal), a record corresponding to the item is stored in the user profile associated with the customer in the user profile database 50. Moreover, each time a customer inquires about a particular item... the customer may be identified by the central server 42 for purposes of updating the user

profile associated with the customer to include a record of items either purchased or inquired about by the customer during use of the retail terminal 12.”

The record is kept each time a transaction is made, therefore the Examiner respectfully disagrees.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUSEYE IWARERE whose telephone number is (571)270-5112. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on (571)272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/  
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